

**Notice of Allowability**

Application No.

09/556,246

Applicant(s)

JAY, GREGORY D.

Examiner

Rita Mitra

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/20/2005.
2. ☒ The allowed claim(s) is/are 1,2,10-13,16,40,55,56,58 and 59.
3. ☒ The drawings filed on 22 November 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

S.d'o

## **DETAILED ACTION**

### ***Status of the Claims***

Applicants' supplemental amendment and response to office action dated April 12, 2005, filed on April 20, 2005 is acknowledged. Claims 3-9, 14-15, 18-39, 41-54, 57 have been canceled. Claims, 12, 56, 58 and 59 have been amended and entered. Therefore, claims 1, 2, 10-13, 16, 40 and 55, 56, 58 and 59 are currently pending and are under examination

### ***Response to Amendments and Remarks***

#### **Objection to Claims**

The objection to claims 11 and 12 are withdrawn in view of the amendment to the claims.

#### **Claim Rejections - 35 USC § 102**

The rejection of claims 56, 58 and 59 under 35 U.S.C. § 102 is withdrawn in view of amendment to the claims.

### ***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dan Pearson on July 15, 2005.

The application has been amended as follows:

#### **In The Claims**

Claims 56, 58 and 59 has been amended to read as:

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Claim 56. (Amended) A composition comprising a boundary-lubricating polypeptide encoded by a nucleic acid construct, said construct comprising a human megakaryocyte stimulating factor coding sequence, wherein said megakaryocyte stimulating factor coding sequence consists of exon ~~1, 2, 3, 4~~ 1-4 and 6-12 of a human megakaryocyte stimulating factor gene and lacks ~~at least one~~ exon 5 of said megakaryocyte stimulating factor gene.

Claim 58. (Amended) A composition comprising a boundary-lubricating polypeptide encoded by a nucleic acid construct, said construct comprising a human megakaryocyte stimulating factor coding sequence, wherein said megakaryocyte stimulating factor coding sequence consists of exon 1, 3 and 6-12 of a human megakaryocyte stimulating factor gene and lacks at least one of exons 2, 4 or 5 ~~exon~~ of said megakaryocyte stimulating factor gene.

Claim 59. (Amended) A composition comprising a boundary-lubricating polypeptide encoded by a nucleic acid construct, said construct comprising a human megakaryocyte stimulating factor coding sequence, wherein said megakaryocyte stimulating factor coding sequence consists of exon 1 and 6-12 of a human megakaryocyte stimulating factor gene and lacks at least one of exons 2-5 ~~exon~~ of said megakaryocyte stimulating factor gene.

Therefore the claims are allowable over the art of record.

### ***Reasons for Allowance***

The following is an examiner's statement of reasons for allowance:

The prior art of record does not teach or suggest an isolated tribonectin comprising a boundary-lubricating amount of a polypeptide, wherein said polypeptide comprising the amino

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acid sequence of SEQ ID NO: 1 and at least one O-linked oligosaccharide moiety, wherein the molecular weight of said tribonectin is in the range of 220-280 kDa. Further the prior art does not teach a composition comprising a boundary-lubricating polypeptide encoded by a nucleic acid construct comprising a human megakaryocyte stimulating factor coding sequence, wherein said megakaryocyte stimulating factor coding sequence consists of i) exon 1-4 and 6-12 of a human megakaryocyte stimulating factor gene and lacks exon 5 of said megakaryocyte stimulating factor gene; ii) exon 1, 3 and 6-12 of a human megakaryocyte stimulating factor gene and lacks at least one of exons 2, 4 or 5 of said megakaryocyte stimulating factor gene; iii) exon 1 and 6-12 of a human megakaryocyte stimulating factor gene and lacks at least one of exons 2-5 of said megakaryocyte stimulating factor gene. Thus the composition comprising said boundary-lubricating polypeptides of instant application is novel.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Claims 1, 2, 10-13, 16, 40 and 55, 56, 58 and 59 are allowed.

### ***Inquiries***

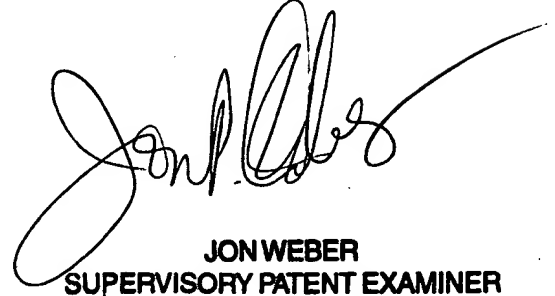
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rita Mitra whose telephone number is (571) 272-0954. The Examiner can normally be reached from 9:30 a.m. to 6:30 p.m. on weekdays. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Dr. Jon Weber, can be reached at (571) 272-0925. Papers related to this application may be submitted to Technology Center 1600 by facsimile transmission. Papers should be faxed to Technology

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Center 1600 via the PTO Fax Center. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Fax Center number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0547.



Rita Mitra, Ph.D.  
July 22, 2005



**JON WEBER**  
**SUPERVISORY PATENT EXAMINER**